



# GOVERNMENT GAZETTE

OF THE

# REPUBLIC OF NAMIBIA

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## Government Notice

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### GOVERNMENT NOTICE

OFFICE OF THE PRIME MINISTER

No. No. 211

1995

REGULATIONS UNDER THE PUBLIC SERVICE ACT, 1995  
(ACT 13 OF 1995)

The Prime Minister has under section 34 of the Public Service Act, 1995 (Act 13 of 1995), on recommendation of the Commission, made the regulations set out in the Schedule.

#### SCHEDULE

#### INTRODUCTORY

##### Definitions

1. In these regulations, unless the context indicates otherwise, any word or expression to which a meaning has been assigned in the Public Service Act, 1995 (Act 13 of 1995) bears that meaning, and -

"Act" means the Public Service Act, 1995 (Act 13 of 1995);

"the Labour Act" means the Labour Act, 1992 (Act 6 of 1992);

"trade union" means a trade union as defined in section 1 of the Labour Act.

## CHAPTER 1

### GENERAL

#### Interpretation of regulations

2. If any doubt or disagreement arises regarding the interpretation or application of the provisions of these regulations, the matter shall be referred to the Prime Minister for decision.

#### Departures in time of national defence or public emergency

3. If a state of national defence or public emergency arises, the Prime Minister may, on the recommendation of the Commission, approve a departure from the provisions of these regulations, either in general or in respect of a particular staff member but subject to section 5(4) of the Act.

#### Duties of heads of organisational components

4. The head of an organisational component shall be responsible to the staff member who exercises authority over him or her for the efficient management and administration of such organisational component including the proper training and utilisation of staff, the maintenance of discipline and the proper use and care of property under his or her control.

#### Residential addresses and telephone numbers

5. A staff member shall notify the head of the organisational component of his or her residential and postal address and where applicable of his or her telephone number at home, and of any change thereof, and the head of the organisational component shall record that information in a register which shall be kept for that purpose.

### Official channels of communication

6.(1) A request or communication to the Prime Minister from any office, ministry or agency in connection with any matter falling within the scope of the Prime Minister's powers, functions or duties in terms of the Act, or which is required in terms of the Act to be submitted to the Prime Minister, shall be addressed to the Secretary to the Cabinet, Office of the Prime Minister by or on behalf of the permanent secretary concerned and shall contain the permanent secretary's views on the matter.

(2) The Secretary to the Cabinet shall, where applicable, obtain the advice or recommendation of the Commission.

(3) No request or communication shall be addressed direct to the Prime Minister or to the Commission or a member thereof.

## CHAPTER 2

### PERSONNEL PROCEDURES

#### General

7.(1) A person who desires to be considered for an appointment in the Public Service, shall -

- (a) apply therefor in a form as prescribed by the Prime Minister;  
and
- (b) sit for such examination as may be prescribed by the Prime Minister as a requirement for appointment to the post applied for.

(2) Every person appointed in the Public Service shall sign an oath or affirmation of secrecy.

### Medical examinations

3.(1) A person applying for appointment in the Public Service shall, if he or she is required to do so, submit himself or herself to a medical examination by a district surgeon or any other medical officer as may be designated.

(2) The district surgeon or other medical officer who undertakes the medical examination shall, draw up a report on the examination in a form prescribed by the Prime Minister.

(3) A permanent secretary may direct that -

(a) a staff member subject himself or herself to a medical examination to determine whether any contamination with a contagious or communicable disease has occurred; or

(b) on such conditions as determined by the Ministry of Health and Social Services, a staff member or a member of his or her household be immunised against such disease to -

(i) prevent an epidemic;

(ii) comply with international regulations; or

(iii) protect himself or herself against contamination with contagious or communicable diseases during a visit to or residence in a country or territory where the danger of such infection exists.

(4) For the purpose of subregulation (3) -

- (a) the services rendered by the Ministry of Health and Social Services shall be used as far as possible; and
- (b) a staff member who does not make use of medical services on grounds of religious or conscientious objections may on application to the permanent secretary concerned be exempted from such examination or immunisation.

(5) A staff member may, for any reason related to his or her employment or continued employment in the Public Service, be required to submit himself or herself to a medical examination by a registered medical practitioner or a medical board indicated or constituted by the Permanent Secretary: Health and Social Services, or a staff member authorised thereto by him or her.

(6) A staff member who is in terms of subregulation (5) required to be examined, may, if he or she so desires, arrange at his or her own expense for his or her private medical practitioner to be present during such examination.

(7) The medical practitioner or medical board who undertakes the medical examination contemplated in subregulation (5) shall, draw up a report on the examination in a form prescribed by the Prime Minister.

(8) If there are reasonable grounds to suspect that a staff member is under the influence of intoxicating liquor or stupefying drugs during his or her official hours of attendance, such staff member shall if so required by the permanent secretary submit himself or herself to an examination by a registered medical practitioner or to any other test which may lawfully be performed by any other person in order to determine whether he or she is under the influence of intoxicating liquor or stupefying drugs.

(9) In relation to a permanent secretary of any office, ministry or agency the Minister responsible for such office, ministry or agency may

exercise the power conferred upon a permanent secretary by subregulation (8).

(10) The expenditure connected with any medical examination, immunisation or test in terms of subregulation (1), (3), (5), (8) or (9) shall be met from revenue.

(11) For the purpose of subregulation (3) "communicable disease" means any disease which can be communicated directly or indirectly from any animal or through any agent to any person or from any person suffering therefrom or who is a carrier thereof to any other person.

#### Reports on staff and adverse remarks

9.(1) A report, in a form prescribed by the Prime Minister, shall, as frequently as is required in the Public Service, be completed and submitted by the reporting staff member in respect of any staff member under his or her supervision.

(2) Any adverse remark contained in a report, including anything else which the Prime Minister considers to be of an adverse nature in respect of a staff member shall be dealt with in the manner approved by the Prime Minister.

(3) For purposes of this regulation "reporting staff member" means any staff member who as first party, completes a report in respect of another staff member.

### CHAPTER 3 DISCIPLINE AND CONDUCT

#### Duties of staff members

10. It is the duty of all staff members to -

- (a) familiarise themselves with the contents of the Act, and these regulations and the staff rules;
- (b) maintain the highest standard of conduct, efficiency and personal behaviour to ensure that the Public Service is beyond reproach;
- (c) be courteous, helpful and attentive in their dealings with the general public.

#### Conduct of staff members

11. A staff member shall not subordinate his or her public duty to his or her private interest, or conduct himself or herself in such a manner as is likely to -

- (a) bring his or her private interests into conflict with his or her public duty; or
- (b) cause a reasonable suspicion that -
  - (i) he or she has allowed his or her private interest to come into conflict with his or her public duty whereby his or her usefulness in the Public Service is impaired; or
  - (ii) he or she has used his or her public position to gain any personal advantage.

#### Dress code

12.(1) Except where prevented by the nature of work, staff members on duty shall at all times be dressed in a clean, decent and tidy manner.



(2) It is the responsibility of supervisors to ensure that all staff members who are required to wear a uniform on duty, do so and that they comply with instructions issued in that respect.

#### **Lawful instructions**

13. Without prejudice to the provisions of section 25(1)(c) of the Act a staff member may demand that an instruction given to him or her by a person authorised to do so be repeated in writing and he or she may require that such instruction be submitted to a higher authority, but subject to regulation 5.

#### **Replying to questions**

14. A staff member shall reply explicitly to a work related question put to him or her by a person who is competent to put such question to him or her, but a staff member is not compelled to furnish a reply which may incriminate him or her.

#### **Granting of interviews**

15. Except with the permission of the permanent secretary, a staff member, whether on duty or leave, shall not grant interviews, discuss matters or release information on policy matters relating to the running of the Public Service.

#### **Acceptance of gifts or benefits**

16.(1) Except with the prior written approval of the Prime Minister, and subject to such conditions as the Prime Minister may impose, a staff member shall not accept any gift or benefit, pecuniary or otherwise, offered to him or her by any person by reason of him or her occupying or having occupied a particular office or post in the Public Service.

(2) A staff member to whom any gift or benefit contemplated in subregulation (1) is offered shall forthwith report such offer to the permanent secretary.

#### Confidential nature of documents concerning staff members

17.(1) Subject to subregulation (2), all documents, files and correspondence under the control of any office, ministry or agency are confidential, and except with the written permission of the Prime Minister, no staff member or his or her legal representative shall have the right of access thereto or inspection thereof for the purpose of any inquiry conducted or to be conducted under any provision of the Act.

(2) Notwithstanding subregulation (1), staff members may, under the supervision of a person designated by the permanent secretary, have access to their personal files.

(3) Subregulation (1) shall not be construed as prohibiting staff members to have access to and inspect such of the documents, files and correspondence referred to in that subregulation as may be necessary for the performance of their official duties.

#### Use of Government vehicles

18.(1) No staff member shall drive a government vehicle unless he or she is in possession of a valid driver's license, and has permission from a competent staff member to make the journey concerned.

(2) A staff member who has been granted permission to drive a government vehicle shall not -

(a) deviate from the authorised route;

- (b) take the vehicle to his or her place of residence unless he or she has permission in writing from the appropriate authority to do so;
- (c) while undertaking any journey with such vehicle -
  - (i) allow any unauthorised person to travel; or
  - (ii) convey any unauthorised goods,on such vehicle over any distance of such journey;
- (d) use such vehicle for any purpose other than official purposes;
- (e) drive such vehicle while under the influence of intoxicating liquor or stupefying drugs;
- (f) commence a journey until the appropriate entry has been made in the log book of such vehicle.

#### Reporting of maladministration

19. A staff member who becomes aware of any wrongdoing or maladministration taking place shall report the wrongdoing or maladministration to his or her supervisor who shall report it to the appropriate authority or the staff member may report it to the appropriate authority directly.

#### Official hours of attendance

20.(1) The head of each organisational component shall with due regard to regulation 22 be responsible for the observance by staff members under his or her supervision of the official hours of attendance approved under regulation

21.

(2) A staff member shall at all times during his or her official hours of attendance be present for duty at his or her place of work and give his or her full attention to the duties entrusted to him or her.

(3) A staff member shall not without the consent of his or her supervisor or the head of the organisational component be absent from his or her place of work during his or her official hours of attendance.

(4) The permanent secretary concerned shall determine with due regard to the public interest, the times, within the official hours of attendance during which the public shall have access to the offices or places of work under his or her control for the purpose of official business.

#### **Working week**

21. The working week and hours of attendance of staff members or particular categories of staff members shall be as approved by the Prime Minister.

#### **Attendance register**

22.(1) Subject to subregulation (2), every staff member shall be required to personally record the time of his or her arrival at and departure from his or her place of work in an attendance register kept at such place of work.

(2) The provisions of subregulation (1) shall not apply  
to -

- (a) any class of staff members exempted from the provisions by the Prime Minister; and

- (b) a staff member the nature of whose services in the opinion of the permanent secretary concerned, renders the keeping of a record of his or her attendance impracticable or undesirable, but such staff member shall comply with any other measures which may be introduced by the permanent secretary for the purpose of controlling observance of the official hours of attendance of such staff member.

#### **Duties of a supervisor**

23.(1) It is the duty of every supervisor to supervise his or her subordinates and to take appropriate action in every case of breach of any of the provisions of the Act, these regulations or the staff rules.

(2) A supervisor who fails to comply with the duty imposed by subregulation (1), shall be deemed to have been negligent in the performance of his or her duties.

### **CHAPTER 4**

#### **CONDITIONS OF SERVICE AND ENTITLEMENTS**

##### **Conditions of service**

24. The conditions of service as prescribed by the Prime Minister, on the recommendation of the Commission, shall be contained in the staff rules.

##### **Official quarters**

25.(1) Official quarters are assigned to posts for occupation by the staff members who fill those particular posts, and the assignment thereof occurs at

the request of the office, ministry or agency concerned and is approved by the responsible ministry subject to the conditions as determined by the Prime Minister on the recommendation of the Commission.

(2) Where official quarters are vacant and not assigned to a specific post, staff members may apply through the office, ministry or agency where they are employed to occupy such vacant quarters.

(3) The allocation of such non-assigned quarters shall be done by the responsible ministry.

(4) Any staff member to whom official quarters is assigned in terms of subregulation (1) or to whom official quarters is allocated in terms of subregulation (3) for occupation shall occupy such quarters subject to the conditions as determined by the Prime Minister on the recommendation of the Commission.

(5) The provision of official quarters to staff members, other than staff members holding posts contemplated in subregulation (1), is not a condition of service and cannot be claimed as such.

(6) For purposes of this regulation -

(a) "responsible ministry" means the Ministry of Works, Transport and Communication or such other office, ministry or agency to which the function of allocating official quarters has been assigned by the Ministry of Works, Transport and Communication;

(b) "official quarters" means those premises, inclusive of buildings, outbuildings, ground, fixtures, fittings, plant and equipment, but exclusive of furniture, which, being under the control of a ministry, are available for assignment or allocation in terms of

this regulation.

## CHAPTER 5 MEDICAL AID SCHEME

### Establishment of the scheme

26. The medical aid scheme approved by the Prime Minister on the recommendation of the Commission shall be managed by the Ministry of Finance with the objective of making provision for the granting of assistance to members in defraying expenditure incurred by them in connection with -

- (a) the rendering of medical, para-medical, nursing, surgical, orthopaedic, dental or optical services, requirements or appliances; and
- (b) the transport by ambulance to and supply of accommodation in hospitals, maternity homes or nursing homes,

to them and their dependants.

## CHAPTER 6 NEGOTIATION AND COLLECTIVE BARGAINING

### The Prime Minister

27. The advice of the Commission regarding any conditions of service which are required to be negotiated with a trade union or groups of trade unions shall be submitted to the Prime Minister for acceptance before the negotiation process with a trade union or groups of trade unions may commence.

### Public Service Commission

28. The Commission shall be approached by the Office of the Prime Minister for its advice regarding any conditions of service which are to be negotiated with a trade union or groups of trade unions.

### Office Of The Prime Minister

29.(1) The Office of the Prime Minister shall be responsible for, and shall be directly involved in the collective bargaining process with a trade union or groups of trade unions.

(2) The Office of the Prime Minister shall also be responsible for providing all supportive and auxiliary services as well as any research that might be required for the smooth running of the bargaining or negotiating process.

### Treasury

30. The Treasury shall serve in an advisory capacity in the process of negotiation and collective bargaining and shall only provide a financial input.

### Trade Unions

31. Only a trade union recognised in terms of section 58 of the Labour Act by virtue of a recognition agreement may participate in the negotiating process.

### Procedures in the process of negotiation and collective bargaining

32.(1) The process of negotiation and collective bargaining shall be



regulated in accordance with the Labour Act and subject to any collective bargaining agreement, the provisions of this regulation.

(2) Either of the two parties may request a meeting of any negotiating body established under a recognition agreement referred to in regulation 30 and shall inform the other party of the subject to be discussed or negotiated.

(3) The Office of the Prime Minister shall immediately prepare and refer to the Commission for its advice draft guidelines on any subject to be discussed or negotiated and which shall together with the Commission's advice be submitted to the Prime Minister for acceptance.

(4) The guidelines as accepted by the Prime Minister shall constitute the parameters within which the Office of the Prime Minister shall be empowered to negotiate with the trade union or groups of trade unions.

(5) If consensus within the accepted parameters is reached by the two parties an agreement shall be formulated and signed and the Office of the Prime Minister shall inform the Prime Minister and the Commission thereof.

(6) Every such agreement shall contain a clause to the effect that Treasury approval shall be obtained before a collective bargaining agreement involving expenditure is implemented.

(7) If no consensus can be reached between the two parties and before a formal dispute is lodged with the Labour Commissioner an attempt shall be made to settle the dispute according to the procedures for settling an internal dispute.

(8) If a deadlock still exists after the internal dispute settling procedure has been finalised, the Office of the Prime Minister shall

immediately draft suggestions, obtain the advice of the Commission and approach the Prime Minister for a solution and in such event the Prime Minister may determine revised parameters for the purpose of further negotiation.

(9) If the revised parameters determined by the Prime Minister are not acceptable to the trade union or groups of trade unions a dispute will be declared in terms of the Labour Act and the procedure prescribed in the Labour Act for the resolution of disputes (rights and interests) shall then be followed.

#### **General**

33. Any staff member who is a member of a negotiating body referred to in regulation 32(2) and who is a member of the trade union involved shall disclose such information to the parties concerned.

### **CHAPTER 7 INVESTIGATION OF GRIEVANCES**

#### **General**

34.(1) When a staff member who is aggrieved by any act, including an act of omission, or decision which affects his or her employment in the Public Service he or she may lodge a grievance with the permanent secretary.

(2) Such grievance shall be dealt with in a manner approved by the Prime Minister.

(3) Should the grievance procedure fail to achieve the desired result

a staff member may demand that his or her request or communication be submitted to the Prime Minister for decision, given on recommendation of the Public Service Commission, subject to the provisions of regulation 6.